

# United States Court of Appeals

District of Columbia Circuit

## NOTICE OF PROPOSED CIRCUIT RULE CHANGES AND OPPORTUNITY FOR COMMENT

### NOTICE

Notice is hereby given that the Court, pursuant to D.C. Circuit Rule 47, proposes the following amendments to D.C. Circuit Rule 47.1, Matters Under Seal.

The revisions to Rule 47.1(e) provide new procedures for submitting sealed matters in appendices. Proposed Rule 47.1(f) provides for processing of sealed records upon the closing of a case.

### OPPORTUNITY FOR COMMENT

Comments on the proposed rules or any aspect of the handling of sealed records may be submitted to the Court's Advisory Committee on Procedures within 60 days from the date of the publication of this Notice in the Daily Washington Law Reporter. Written comments may be sent to:

John M. Nannes, Chair  
Advisory Committee on Procedures  
Antitrust Division  
Department of Justice  
10<sup>th</sup> & Constitution Ave., N.W.  
Room 3114  
Washington, D.C. 20530

The Committee will consider any comments received from interested persons and organizations. It will then formulate recommendations to the Court. When the Committee transmits its recommendations to the Court for consideration, it will likewise send to the Court copies of all comments which it has received.

Copies of this Notice have been published this day by the means specified in D.C. Circuit Rule 47(c).

Mark J. Langer, Clerk

Issued: April 2, 1998

**Proposed Rule 47.1(e)** (revised — deleted material ~~stricken~~, new material **shaded**)

**(e) Appendices Containing Matters Under Seal.**

(1) ~~Two Segments of Appendices~~ **Sealed Supplement to the Appendix**; *Number of Copies*. If a party deems it necessary to include material under seal in an appendix, the appendix shall be filed in 2 segments. One segment shall contain all sealed material and shall bear the legend "**Supplement — Under Seal**" on the cover, and each page of that ~~segment~~ **supplement** containing sealed material shall bear the legend "Under Seal" at the top of the page. The second appendix segment shall bear the legend "Public Appendix -- Material Under Seal in Separate Appendix **Supplement**" on the cover; each page from which material under seal has been deleted shall bear the legend "Material Under Seal Deleted" at the top of the page. The party shall file 7 copies of the sealed ~~segment~~ **supplement** and 7 copies of the public ~~segment of the~~ appendix.

(2) *Service; Number of Copies*. Each party shall be served with one copy of the public ~~segment of the~~ appendix and one copy of the sealed ~~segment~~ **supplement**, if the party is entitled to receive the material under seal. (See, e.g., Rule 6(e), Federal Rules of Criminal Procedure.)

(3) *Non-availability to the Public*. ~~Segments of~~ **Supplements to** appendices filed with the court under seal shall be available only to authorized court personnel and shall not be made available to the public.

**Proposed Rule 47.1(f) (new)**

**(f) Disposal of Sealed Records.**

(1) In any case in which all or part of the record of this court (including briefs and appendices) has been maintained under seal, the Clerk shall, in conjunction with the issuance of the mandate (or the entry of the final order, in a case in which no mandate shall issue), order the parties to show cause why the record (or sealed portions) should not be unsealed. If the parties agree to unsealing, the record shall be unsealed by order of the court, issued by the Clerk. If the parties do not agree to unsealing, the order to show cause, and any responses thereto, shall be referred to the court for disposition.

(2) Any record material not unsealed pursuant to this Rule shall be designated "Temporary Sealed Records," and transferred to the Federal Records Center under applicable regulations. The records shall be returned to the court for reconsideration of unsealing after a period of twenty years.

(3) The court may, on its own motion, issue an order to show cause and consider the unsealing of any records in the court's custody, at any time.